

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

PIERRE A. BASSON,

Plaintiff,

v.

**MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
CITIMORTGAGE, INC., and FEDERAL
NATIONAL MORTGAGE
ASSOCIATION,**

Defendants.

CIVIL ACTION

FILE NO. _____

**Removed from the Superior
Court of Forsyth County
No. 17CV1472-3**

NOTICE OF REMOVAL

Defendant CitiMortgage, Inc. removes this action from the Superior Court of Forsyth County, Georgia, to the United States District Court for the Northern District of Georgia under 28 U.S.C. §§ 1332, 1441, and 1446. This action is removable because the parties are completely diverse, and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

I. PROCEDURAL REQUIREMENTS

1. Basson filed this action in the Superior Court of Forsyth County, Georgia (No. 17CV1472-3) on August 7, 2017. CitiMortgage is timely filing this

notice within 30 days of receiving Basson's complaint and summons. *See* 28 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 119 S. Ct. 1322 (1999) (finding 30-day removal period runs from date of service of summons and complaint).

2. True and correct copies of all process, pleadings, and orders in the state court action are attached hereto as Exhibit "A." *See* 28 U.S.C. § 1446 (requiring removing defendant to file state court pleadings in district court).

3. The United States District Court for the Northern District of Georgia, Gainesville Division, is the federal district and division embracing the Superior Court of Forsyth County, Georgia. *See* 28 U.S.C. §§ 90(a)(2) and 1441(a).

4. CitiMortgage is giving prompt written notice of this *Notice of Removal* to Basson and the Superior Court of Forsyth County as required by 28 U.S.C. § 1446(d).

II. DIVERSITY JURISDICTION

5. Federal courts have diversity jurisdiction over civil actions between citizens of different states where the amount in controversy exceeds \$75,000.00. *See* 28 U.S.C. § 1332. Removal based on diversity jurisdiction is possible "if there is complete diversity between all named plaintiffs and all named defendants, and

no defendant is a citizen of the forum State." *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 84, 126 S. Ct. 606 (2005).

6. Basson alleges that he resides and owns real property in Forsyth County, Georgia. (Compl. ¶¶ 4, 6-7). Basson is a citizen of Georgia. *See Travaglio v. Am. Express Co.*, 735 F.3d 1266, 1269 (11th Cir. 2013) (explaining that natural person's citizenship is determined by person's residency and "intention to remain there indefinitely").

7. CitiMortgage is a corporation organized under New York law, with its principal place of business in Missouri. *See* 28 U.S.C. § 1332(c)(1) (stating that corporation is citizen of every State where it is incorporated, and of State where it has its principal place of business); *Fritz v. Am. Home Shield Corp.*, 751 F.2d 1152, 1153 (11th Cir. 1985) (noting that § 1332(c) "furnishes a dual base for citizenship" for corporations). CitiMortgage is not a Georgia citizen for diversity jurisdiction purposes.

8. Mortgage Electronic Registration Systems, Inc. ("MERS") is a corporation organized under Delaware law with its principal place of business in Virginia. MERS is not a Georgia citizen for diversity jurisdiction purposes.

9. Federal National Mortgage Association ("Fannie Mae") is a federally chartered corporation organized under United States law, with its principal place of

business is in the District of Columbia. Fannie Mae is a citizen of the District of Columbia by statute. *See* 12 U.S.C. § 1717(a)(2)(B) ("[Fannie Mae] shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction ... to be a District of Columbia corporation."). Fannie Mae is not a Georgia citizen for diversity jurisdiction purposes.¹

10. The face of Basson's complaint demonstrates that the amount in controversy exceeds \$75,000. Basson prays for "actual damages of at least \$324,000.00, punitive damages of at least 1 Million Dollars (\$1,000,000.00) court costs and reasonable attorneys fee (sic)." (Compl. ¶ 19). *See Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 754 (11th Cir. 2010) (removal is proper when "it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement"); *see also Bell v. Preferred Life Society*, 320 U.S. 238, 240, 64 S.Ct. 5 (1943) (stating that punitive damages must be considered when determining the jurisdictional amount in controversy in diversity cases).

11. Accordingly, this case is properly removable because it is between citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

¹ MERS and Fannie Mae consent to the removal of this action. *See* Ex. "B" ("Consent to Removal").

III. CONCLUSION

WHEREFORE, CitiMortgage prays that this Court take jurisdiction and issue all orders and process necessary to remove this action from the Superior Court of Forsyth County, Georgia, to the United States District Court for the Northern District of Georgia, Gainesville Division.

Respectfully submitted this 6th day of September, 2017.

/s/ Louis G. Fiorilla

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CERTIFICATION OF COUNSEL

I hereby certify that I prepared the foregoing **NOTICE OF REMOVAL** with Times New Roman, 14 point font, one of the font and point selections approved by the Court in LR 5.1B.

/s/ Louis G. Fiorilla

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2017, I presented the foregoing **NOTICE OF REMOVAL** to the Clerk of Court for filing and uploading to the CM/ECF system, and that I served a true and correct copy of the document via United States First Class Mail, postage prepaid, addressed as follows:

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